



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-832]

Pure Magnesium from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2017-2018

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Tianjin Magnesium International, Co., Ltd. (TMI) and Tianjin Magnesium Metal, Co., Ltd. (TMM) (collectively TMI/TMM) did not have reviewable entries during the period of review (POR).

We invite interested parties to comment on these preliminary results.

DATES: Applicable [INSERT DATE PUBLISHED IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Kyle Clahane or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-5449 or (202) 482-5848, respectively.

Background

On May 1, 2018, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on pure magnesium from the People's Republic of China (China) for the POR.¹ On July 12, 2018, in response to a timely request from

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 83 FR 19047 (May 1, 2018).

the petitioner,² and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on pure magnesium from China with respect to TMI and TMM.³

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019.⁴ If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the revised deadline for the issuance of these preliminary results is now March 12, 2019.

Scope of the Order

Merchandise covered by the order is pure magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

² See letter from US Magnesium LLC (the petitioner), "Pure Magnesium from the People's Republic of China: Request for Administrative Review," dated May 31, 2018.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 32270 (July 12, 2018) (*Initiation Notice*). In the 2011-2012 administrative review of the order, Commerce collapsed TMM and TMI, and treated the companies as a single entity for purposes of the proceeding. Because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. See *Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 94 (January 2, 2014) and accompanying Issues and Decision Memorandum at Comment 5.

⁴ See memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

- (1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as “ultra pure” magnesium);
- (2) Products that contain less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as “pure” magnesium); and
- (3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as “off-specification pure” magnesium).

“Off-specification pure” magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Preliminary Determination of No Shipments

We received timely submissions from TMM and TMI certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.⁵ On August 13, 2018, we requested the U.S. Customs and Border Protection (CBP) data file of entries of subject merchandise imported into the United States during the POR, and exported by TMM and/or TMI. This query returned no entries during the POR.⁶ Additionally, in order to examine TMM's and TMI's claim, we sent an inquiry to CBP requesting that any CBP officer alert Commerce if he/she had information contrary to these no-shipments claims.⁷ On August 22, 2018, we received notification from CBP of no information contrary to the no shipment claims.⁸

Because we have not received information to the contrary from CBP, consistent with our practice, we preliminarily determine that TMI/TMM had no shipments and, therefore, no reviewable entries during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies but, rather, to complete the review with respect to TMI/TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.⁹

⁵ See letter from TMM, "Pure Magnesium from the People's Republic of China; A-570-832; Certification of No Sales by Tianjin Magnesium Metal Co., Ltd.," dated August 1, 2018, at 1. See letter from TMI, "Pure Magnesium from the People's Republic of China; A-570-832; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.," dated August 4, 2018.

⁶ See Memorandum to the file "2017-2018 Administrative Review of Pure Magnesium from the People's Republic of China, U.S. Customs and Border Protection Data" dated August 23, 2018 (No shipment Memo) at Attachment 1.

⁷ *Id.* at Attachment 2.

⁸ *Id.* at Attachment 3.

⁹ See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014-2015*, 81 FR 72567 (October 20, 2016) and the "Assessment Rates" section, below.

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the Federal Register.¹⁰ Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the date for filing case briefs.¹¹ Parties who submit arguments are requested to submit with each argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.¹² Parties submitting briefs should do so pursuant to Commerce's electronic filing system: Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).¹³ ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days of the date of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

¹⁰ See 19 CFR 351.309(c)(1)(ii).

¹¹ See 19 CFR 351.309(d)(1)(2).

¹² See 19 CFR 351.309(c)(2), (d)(2).

¹³ See 19 CFR 351.303 (for general filing requirements).

Unless extended, we intend to issue the final results of this administrative review, including our analysis of all issues raised in any written brief, within 120 days of publication of this notice in the Federal Register, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁴ We intend to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Pursuant to Commerce's practice in NME cases, if Commerce continues to determine in the final results that TMI/TMM had no shipments of subject merchandise, any suspended entries during the POR from TMI/TMM will be liquidated at the China-wide rate.¹⁵

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI/TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM in the most recently completed review of the company; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 111.73 percent; and (4) for all non-Chinese exporters of subject merchandise which have not received

¹⁴ See 19 CFR 351.212(b)(1).

¹⁵ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 6, 2019.

Gary Taverman,

Deputy Assistant Secretary

for Antidumping and Countervailing Duty Operations

performing the non-exclusive functions and duties of the

Assistant Secretary for Enforcement and Compliance.

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